

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF FLORIDA  
MIAMI DIVISION**

RYAN BRESLOW, ALEX FINE, and  
JON GORDON,

Plaintiffs,

v.

MARK PHILLIPS and BENJAMIN REED,

Defendants.

Action No.: 23-cv-20727-ALTMAN/Reid

Honorable Roy K. Altman

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MOVEMENTDAO and MARK PHILLIPS,

Counterclaim-Plaintiffs

v.

RYAN BRESLOW, ALEX FINE, and  
JON GORDON,

Counterclaim-Defendants

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**PLAINTIFFS' UNOPPOSED MOTION FOR LEAVE TO FILE  
DOCUMENTS UNDER SEAL AND INCORPORATED MEMORANDUM OF LAW**

Pursuant to Local Rule 5.4, Plaintiffs and Counterclaim-Defendants Ryan Breslow, Alex Fine, and Jon Gordon (collectively, “Plaintiffs”), by and through undersigned counsel, hereby move the Court for an order permitting Plaintiffs: (1) to file under seal portions of Plaintiffs’ Opposition to Defendants’ Objections to Report And Recommendation (“Opposition to Objections”), and (2) to file under seal portions of the Declaration of Christopher Berg dated August 4, 2023 (“Berg Declaration”).

## **I. INTRODUCTION**

The Court previously granted Plaintiffs leave to file a confidential document under seal. *See* Dkt. Nos. 115, 129. That document was subsequently filed under seal through the E.C.F. system on June 21, 2023 in connection with a preliminary injunction hearing and on June 30, 2023 in connection with Plaintiffs’ Motion to Dismiss Counterclaims (Dkt. No. 131). Now, Plaintiffs seek leave to file under seal portions of their Opposition to Objections that reference this confidential document. Plaintiffs also seek leave to file under seal portions of the Berg Declaration, which contain excerpts from the sealed hearing transcript discussing that confidential document.

## **II. LEGAL STANDARD**

While court records are generally subject to the common law right of access, “the right to inspect and copy judicial records is not absolute.” *Nixon v. Warner Comm., Inc.*, 435 U.S. 589, 597 (1978). Courts may allow documents to be filed under seal upon a showing of “good cause,” which includes “balanc[ing] the asserted right of access against the other party’s interest in keeping the information confidential.” *Romero v. Drummond Co.*, 480 F.3d 1234, 1246 (11th Cir. 2007); *see Jankula v. Carnival Corp.*, No. 18-CV-24670, 2019 WL 8051714, at \*1 (S.D. Fla. July 30, 2019).

### **III. ARGUMENT**

The Court should grant leave for Plaintiffs to file under seal portions of their Opposition to Objections and portions of the Berg Declaration.. This Court has previously granted Plaintiffs leave to file under seal a confidential document. *See* Dkt. Nos. 115, 129. The portions of Plaintiffs' Opposition to Objections that Plaintiffs now seek leave to file under seal discuss the details of that confidential document. Similarly, Plaintiffs seek leave to file under seal portions of the Berg Declaration that discuss the confidential document. Throughout this litigation, the parties have mutually treated the document and its contents as confidential, and nothing has changed since this Court last granted leave to file the confidential document under seal that would necessitate a public, unredacted filing.

### **IV. CONCLUSION**

For the reasons set forth in this Memorandum, Plaintiffs respectfully request the Court issue an Order permitting Plaintiffs (1) to file under seal portions of its Opposition to Objections and (2) to file under seal portions of the Declaration of Christopher Berg dated August 4, 2023.

#### **COMPLIANCE WITH LOCAL RULE 7.1(a)(3)**

On August 1, 2023, counsel for Plaintiffs conferred with Defendants' counsel. Defendants do not oppose the relief sought by this Motion.

Dated: August 2, 2023

/s/ Jamie L. Katz

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**CERTIFICATE OF SERVICE**

I hereby certify that a true and correct copy of the foregoing document was served by the Court's CM/ECF system on August 2, 2023 on all counsel of record.

/s/ Jamie L. Katz

Jamie L. Katz

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Honorable Roy K. Altman

**[PROPOSED] ORDER GRANTING MOTION FOR  
LEAVE TO FILE UNDER SEAL**

THIS CAUSE is before the Court on Plaintiffs and Counterclaim-Defendants Ryan Breslow, Alex Fine, and Jon Gordon's (collectively, "Plaintiffs") Motion For Leave To File Documents Under Seal (the "Motion"), served under Certificate of Service dated August 2, 2023. The Court has reviewed the Motion and is otherwise fully advised in the premises.

Accordingly, it is ORDERED that Plaintiffs' Motion For Leave To File Under Seal is hereby GRANTED. Plaintiffs may file under seal portions of (1) Plaintiffs' Opposition to Defendants' Objections to Report And Recommendation , and (2) the Declaration of Christopher Berg dated August 4, 2023.

**DONE AND ORDERED** in Chambers at \_\_\_\_\_, Florida this \_\_\_\_ day of August 2023.

Dated:

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United States District Court Judge

**CERTIFICATE OF SERVICE**

I hereby certify that a true and correct copy of the foregoing document was served by the Court's CM/ECF system on August 2, 2023 on all counsel of record.

/s/ Jamie L. Katz  
Jamie L. Katz